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*Attorneys for Defendants
Caprius, Inc. and MCM Environmental Technologies, Inc.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	x
GOLDSTAR MEDICAL CORP.,	:
	:
Plaintiff,	:
	: Index no. 07 CV 11269
- against -	:
	: ECF Case
	:
CAPRIUS, INC. and MCM ENVIRONMENTAL	:
TECHNOLOGIES, INC.,	:
	:
Defendants.	:
-----	x

**DECLARATION OF JONATHAN JOELS IN
SUPPORT OF DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

I, JONATHAN JOELS, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the following is true and correct:

1. I am the Chief Financial Officer of each of the defendants Caprius, Inc. ("Caprius") and MCM Environmental Technologies, Inc. ("MCM"; together "Defendants").
2. I submit this declaration in support of Defendant's motion to dismiss the complaint on the grounds that the amount in controversy does not meet the \$75,000 jurisdictional threshold and that Caprius should not be a party to this action.

3. In December 2002, Caprius acquired 57% of MCM which was engaged in the medical waste disposal business through the development and sale of the SteriMed systems. Since the acquisition, all of the medical waste and SteriMed business has continued to be operated through MCM, not through Caprius.

4. Caprius has not entered into any agreement with plaintiff Goldstar Medical Corp. ("Goldstar"). In fact, the agreements that are the subject of this action are between Goldstar and MCM, not Caprius.

5. On or about November 17, 2003, MCM executed a letter agreement with Goldstar (the "2003 Letter Agreement"). A copy of the 2003 Letter Agreement is attached as exhibit A to the Complaint.

6. The 2003 Letter Agreement provides in relevant part:

In the event that MCM enters into a commercial agreement with any entity that is a direct result of an introduction or sales effort made by Goldstar, provided that it is a party previously approved by MCM and with whom MCM has had no previous contact, MCM agrees to pay Goldstar a sales commission based upon net sales receipts to MCM for units sold or placed on rental . . .

7. The Complaint alleges that on or about November 17, 2005, MCM and Goldstar purportedly "re-affirmed and enhanced" the 2003 Letter Agreement with a second letter dated November 17, 2005 (the "2005 Letter"). A copy of the 2005 Letter is attached as exhibit B to the Complaint.

8. The 2005 Letter purports to change the percentage payable to Goldstar under the 2003 Letter Agreement and provides in relevant part:

. . . MCM will pay Goldstar a commission of 10% on all sales made to either DaVita or the old Gambro accounts which are now DaVita clinics.

9. The Complaint alleges that Goldstar generated sales and rentals for the DaVita account and that the letter agreements were breached through a failure to “pay commission [sic] on sales and rentals generated by [Goldstar] as promised. (Complaint ¶ 52.)

10. Since November 17, 2003 (the date of the 2003 Letter Agreement), direct gross sales to DaVita by MCM have totaled \$132,669. Copies of the relevant documents associated with these sales are attached hereto at Exhibit 1.

11. Since the date of execution of the 2003 Letter Agreement, Goldstar has invoiced MCM, not Caprius, for commissions due in an amount of \$10,000, as per the Goldstar invoice #013107, dated January 31, 2007. A copy of the Goldstar invoice is attached hereto at Exhibit 2.

12. In addition, upon information and belief, DaVita has pending lease agreements with a third-party purchaser of MCM equipment. The sales to the third-party purchaser total \$342,000. An excel spreadsheet setting forth both direct sales to DaVita and the sales to the third-party purchaser in the total of \$474,669 is attached hereto as Exhibit 3.

13. Accordingly, if the Court were to assume (for purposes of this motion only) that Goldstar is entitled to a commission on the direct and indirect sales involving DaVita totaling \$474,669 -- based on Goldstar’s ability to prove that the sales were a “direct result of a sales effort or introduction” by Goldstar -- and that the commission rate was 10%, Goldstar’s total claim for damages would be less than \$47,500 -- well below the \$75,000 jurisdictional threshold.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Executed on February 29, 2008.

/s/ Jonathan Joels
Jonathan Joels

Exhibit 1

Environmental Technologies, Inc.
One Parker Plaza, Fort Lee, NJ 07024
Phone: (201) 242-1222 / Fax: (201) 592-0392

INVOICE

INVOICE 001207	CUSTOMER NO 10000	INVOICE DATE Jan 12, 2006
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S DaVita Inc
O
I Attn: Dave Clark
D 5200 Virginia Way
T Brentwood, TN 37027
O

S DaVita Inc
H 1720 West Avenue North
I Suite 101
P Crossville, TN 38555
T
Q

[illegible]

ORIGINAL INVOICE

DaVita
 P.O. Box
 Tacoma, WA 98401-2037
 Telephone (253) 272-1916

DaVita
 MCM Environmental
 Technologies

breakdown #2027

PURCHASE ORDER
 NO. **1903105**
 ABOVE NUMBER MUST APPEAR ON ALL PACKING LISTS, PACKAGES, INVOICES, CREDIT MEMOS OR OTHER CORRESPONDENCE.
 SUBMIT ALL INVOICES IN DUPLICATE

S H I P T O

ORDER DATE		CONFIRMING		VIA PHONE ()		F.O.B.		OUR DUCK		TERMS		DELIVERY DATE REQUIRED		PARTIALS OK	
LINE ORDER		NO		YES		TO		OTHER						SIGNATURE COMPLETE	
NO.	QTY.	UNIT	STOCK NUMBER	DESCRIPTION				COST CENTER	UNIT PRICE	EXTENSION					
1	1			STERILIZED TUBES					\$20,000						
									+ Freight						

ELLERRE
Da Villa - P.O. Box 2037
Tacoma, WA 98401-2037
Telephone (253) 272-1916

DaVita-Med-Center-#917
665610 Almeda Road
Houston, TX 77004
713-520-6878

DaVita[®]
SteriMed

Elliott Koppel
Fax 201-968-0393

PURCHASE ORDER

NO. 1799045

ABOVE NUMBER MUST APPEAR ON
ALL PACKING LISTS, PACKAGES,
INVOICES, CREDIT MEMOS OR
OTHER CORRESPONDENCE.

**SUBMIT ALL INVOICES
IN DUPLICATE**

☒ PARTIALS OK
☒ SHIP COMPLETING

DELIVERY DATE REQUIRED

SYSTEM

F.O.R.

CONFIRMING VOA PHONE (

3101. HATH.

2

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[illegible]

COVERAGE DELIVERY AND PAYMENT SUBJECT TO REGULATIONS/INSTRUCTIONS LISTED BELOW:

- 1) The terms in this order will be considered as accepted, unless the Purchasing Department is notified in writing within 10 days of the date of the order. 2) Each shipment must be covered by a separate invoice. 3) Articles on this Purchase Order must not be mixed with those on another Purchase Order. 4) No goods will be accepted without a Packing Slip showing Purchase Order Number. 5) If order cannot be filled as indicated, advise the Purchasing Tech. 6) The right is reserved to examine and check deliveries of all materials after delivery is made.

PURCHASING TECH

FACILITY ADMINISTRATOR.

REGIONAL DIRECTOR

VENDOR COPY / FILE COPY

BILL TO:
TOTAL RENAL CARE, INC.
P.O. Box 2037
Tacoma, WA 98401-2037
Telephone (253) 272-1916

TOTAL RENAL CARE, INC.
MEM Environmental Tech.
One Chrv. Plaza Suite 400
Hackensack, N.J. 07601

Telephone (253) 272-1916
1857/Dynaco Central Route
640 Highway 51 Bypass East Side C
Dyersburg, TN 38024
(2) 731-285-~~0228~~ 0228 (F) 731-285-201

SPECIAL PROJECT			
PURCHASE ORDER			
NO. PA			
ABOVE NUMBER MUST APPEAR ON ALL PACKING LISTS, PACKAGES, INVOICES, CREDIT MEMOS OR OTHER CORRESPONDENCE.			
SUBMIT ALL INVOICES IN DUPLICATE			

[illegible]

ACCEPTANCE, DELIVERY, AND PAYMENT, SUBJECT TO REGULATIONS INSTRUCTIONS LISTED BELOW:

2) Each shipment must be covered by a separate invoice.

3) Articles on this Purchase Order must not be included with those on another Purchase Order. All articles will be accounted without a Packing Slip showing Purchase Order Number.

No goods will be accepted without a copy of the Purchasing Tech. If order cannot be filled as indicated, advise the Purchasing Tech.

The right is reserved to examine and check deliveries of all materials after delivery is made.

PURCHASING TECH
FACILITY ADMINISTRATOR
REGIONAL DIRECTOR

Exhibit R on daily data

PURCHASE ORDER	
NO. 1940506	ABOVE NUMBER MUST APPEAR ON ALL PACKING LISTS, PACKAGES, INVOICES, CREDIT INVOICES OR OTHER CORRESPONDENCE.
SUBMIT ALL INVOICES IN DUPLICATE	

BILL TO
 Davita - PO Box 2007
 Toms River, NJ 08054-2007
 Telephone (609) 272-6016

Davita

Attn: MCM Environmental Technologies, INC.
 One University Plaza, Suite 400
 Hackensack, NJ 07601
 Attn: Dwight Morgan
 Fax (800) 420-3205

Attn: DaVita Clarksville North Dialysis Center
 3071 Clay Lewis Rd
 Clarksville, TN 37040
 Jay Ross (770) 778-9475
 Facility # 2279

ORDER DATE		CONFIRMING		VENDOR PHONE		POIS		OUR BOOK		TERMS		DEPART DATE REQUIRED		8/17/07		SHIP COMPLETE	
LINE NO.	ORDER NO.	QTY.	UNIT	NO	YES	STOCK NO.	DESCRIPTION	POIS	OTHER	OUR BOOK	TERMS	DEPART DATE REQUIRED	COST CENTER	UNIT PRICE	EXTENSION	PARTIALS OK	SHIP COMPLETE
1	1	EA					Please see attached quote for JR Medical waste processing unit.							\$ 22,000.00	\$ 22,000.00		
2																	
3																	
4																	
5																	
6																	
7																	
8																	
9																	
10																	
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17																	
18																	
19																	
20																	
21																	
22																	
23																	
24																	
25																	
Subtotal														\$ 22,000.00	\$ 22,000.00		
Tax														\$	\$		
Shipping & Handling														\$	\$		
Installation														\$	\$		
GRAND TOTAL														\$ 22,000.00	\$ 22,000.00		

ACCEPTANCE, DELIVERY, AND PAYMENT, SUBJECT TO REGULATIONS/INSTRUCTIONS LISTED BELOW:

- 1) The terms in this order will be considered as accepted, unless the Purchasing Department is immediately advised otherwise.
- 2) Each shipment must be covered by a separate invoice.
- 3) Articles on this Purchase Order must not be invoiced with those on another Purchase Order.
- 4) No goods will be accepted without a Packing Slip showing Purchase Order Number.
- 5) If order cannot be filled as indicated, advise the Purchasing Dept.
- 6) The right is reserved to examine and check deliveries of all materials after delivery is made.

Accounting Tech Name: *[Signature]* Title: *[Signature]*
 Facility Address Name: *[Signature]* Title: *[Signature]*
 Regional Director Name: *[Signature]* Title: *[Signature]*

VENDOR COPY / FILE COPY

DAVITA

JUN 22, 2007 12:13PM

NO. 7082 F. 1

Exhibit 2

GOLDSTAR MEDICAL CORP.**INVOICE**

56 Pecan Valley Drive
 New City, NY 10956
 Phone: (845) 639-9149 Fax: (845) 639-9110

INVOICE # 013107
 DATE: January 30, 2007

Bill To:
 Attn: Accounts Payable
 MCM ENVIRONMENTAL TECHNOLOGIES, INC.
 1 University Plaza, Suite 400
 Hackensack, NJ 07601

Ship To: N/A

Comments or special instructions: N/A

SALESPERSON	P.O. NUMBER	SHIP DATE	SHIP VIA	F.O.B. POINT	TERMS
		01-2007			

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
2	Senior SteriMed Unit - Davita: Lonestar Facility, Houston TX - Davita: Colliersville Facility, Colliersville TN	\$40,000	\$80,000
1	Junior SteriMed Unit - Davita: Brookhollow Facility, Houston TX	\$20,000	\$20,000
Subtotal			\$100,000
Commission			10%
TOTAL DUE			\$10,000

Make all checks payable to **Goldstar Medical Corp.** If you have any questions concerning this invoice, contact Bill Garrett at (845) 639-9149.

THANK YOU FOR YOUR BUSINESS!

Exhibit 3

DAVITADIRECT SALES BY MCM ENVIRONMENTAL TECHNOLOGIES, INC.

<u>PO #</u>	<u>Order date</u>	<u>PO Amount</u>	<u>Status</u>	<u>Location Name</u>	<u>State</u>
	Inv. Date 1/30/06	\$22,800	Paid	Crossville	TN
1826851	12/12/2006	\$40,000	Paid	Lonestar	TX
1903105	11/7/2006	\$20,000	Paid	Brookhollow	TX
1799405	10/27/2006			MedCenter	TX
1912102	10/31/2006	\$40,000		Colliersville	TN
1912102	10/31/2006	(\$40,000)	Cancelled	Colliersville	TN
1772 358		\$40,000		Rock Praire	TX
1772 358		(\$40,000)	Cancelled	Rock Praire	TX
PA 9085	10/28/2007	\$27,869	Paid	Dyersburg	TN
1940505	8/17/2007	\$22,000	Paid	Clarksville	TN
		<u>\$132,669</u>			

PENDING LEASES BY OTHERS

\$40,000	MedCenter	TX
\$40,000	MedCenter	TX
\$40,000	Omni	TX
\$40,000	Northstar	TX
\$40,000	Bryant College Station	TX
\$20,000	Woodlands	TX
\$20,000	Mid Cities	TX
\$40,000	Rock Praire	TX
\$20,000	First Colony	TX
\$42,000	Lake Clift	TX
<u>\$342,000</u>		
<u>\$474,669</u>		